

REMARKS

This Amendment is in response to the Office Action mailed November 22, 2006. Previously allowed claims 1-4, 6, 8, 9, 11, 13-24, 26, 28, and 30 were examined in the Office Action. Previously allowed claims 1-4, 6, 8, 9, 11, 13-24, 26, 28, and 30 were rejected. No claims have been canceled. No new claims have been added. Applicants respectfully request examination and a notice of allowance in view of the amendment and the following remarks.

Claim Rejections – 35 USC § 112

Claims 1 and 6 were rejected under 35 U.S.C. 112, second paragraph, as being incomplete. Claims 1 and 6 have been amended to include omitted claim elements. Applicants respectfully request that this rejection be withdrawn.

Claim Rejections – 35 USC § 101

Claims 28 and 30 were rejected under 35 U.S.C. 101, as being directed to non-statutory subject matter. Claims 28 and 30 have been amended to distinguishably point out and disclose a control algorithm including computer instructions. These amendments are supported in the specification at least on page 16, lines 23 through 27. Applicants respectfully request that this rejection be withdrawn as well.

Claim Rejections – 35 USC § 103

Claims 1-4, 6, 8, 9, 11, 13-24, 26, 28, and 30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gudmundsson et al., U.S. Patent No. 6,870,901 B1 (hereinafter “Gudmundsson.”) in view of Chiu et al., U.S. Patent No. 6,597,689 B1 (hereinafter “Chiu”). Gudmundsson in view of Chiu does not disclose or suggest each and every feature of amended independent claims 1, 6, 11, 20, and 28.

Claims 1 and 6

Applicants’ claim 1 is allowable over the cited references at least because it recites “an *object* defined by the network management system for *representing that a batch process is requesting* activity on the DSLAM switch.” Claim 6 includes a similar recitation. The Office Action admits that Gudmundsson does not disclose an object *representing that a batch process is requesting* activity on the DSLAM switch but relies on Chiu to resolve this deficiency. (See Office Action page 4, lines 6-12).

In contrast, Chiu discloses a switched virtual connection signaling system and method where a network management system (NMS) has the ability to schedule management tasks or jobs at specific times or dates. (See Chiu, column 55, 45-50). Applicants respectfully submit that just because an NMS has the ability to schedule tasks or jobs does not mean that the NMS discloses an object *representing that a batch process is requesting* activity on the DSLAM switch as recited in claims 1 and 6. In fact neither Chiu nor Gudmundsson alone, or in combination disclose or suggest any reason why Chiu would need to represent that a batch process is requesting DSLAM activity. Thus, it would not have been obvious to one of ordinary skill in the art to modify Gudmundsson to include such an object unless the skilled artisan was using impermissible hindsight in view of Applicants' claims 1 and 6. Therefore, Applicants respectfully submit that claims 1 and 6 are allowable over Gudmundsson in view of Chiu.

Claims 11, 20, and 28

Applicants' claim 11 is allowable over the cited references at least because it recites "delaying when the DSLAM level semaphore is not available wherein the delaying is different between a GUI order and a batch order and wherein the GUI order bypasses the batch order and is processed with priority." This amendment is disclosed in the specification at least on page 15, lines 12-20. Claims 20 and 28 include a similar recitation. The Office Action admits that Gudmundsson does not disclose representing that a batch process or a GUI operator is requesting activity on the DSLAM switch but relies on Chiu to resolve this deficiency. (See Office Action page 4, lines 6-12 and page 5, lines 7-11).

As described above with respect to claim 1, Chiu discloses a switched virtual connection signaling system and method where a network management system (NMS) has the ability to schedule management tasks or jobs at specific times or dates. Chiu also discloses that the NMS includes a fully integrated system based on JAVA. (See Chiu, column 55, 45-50 and column 54, lines 39-45). Applicants respectfully submit that just because an NMS has the ability to schedule tasks or jobs and includes an integrated system based on JAVA does not mean that the NMS discloses a GUI order that bypasses a batch order and is processed with priority as recited in claims 11, 20, and 28. In fact both Chiu and Gudmundsson alone, or in combination are silent with respect to a GUI order that bypasses a batch order and is processed with priority. Thus, independent claims 11, 20, and 28 are also allowable over Gudmundsson in view of Chiu.

Dependent Claims

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gudmundsson and Chiu, and further in view of the article entitled, "Efficient Implementation of Semaphores in Controller Area Networks," by Cena et al., Industrial Electronics, IEEE Transactions on, Volume 46, Issue 2, April 1999, PP417-428 (hereinafter "Cena").

At least because claims 2-4, 8, 9, 13-19, 21-24, 26, and 30 inherit the language of allowable independent claims 1, 6, 11, 20, or 28, claims 2-4, 8, 9, 13-19, 21-24, 26, and 30 are also allowable over Gudmundsson in view of Chiu and Gudmundsson in view of Chiu and Cena.

CONCLUSION


In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.



Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(404) 954-5041

Date: February 22, 2007


Murrell W. Blackburn
Reg. No. 50,881